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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,100	05/18/2001	Zhenhua Jing	2291/0J360	9210

7278 7590 11/03/2003

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EXAMINER
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BROWN, JENNINE M

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 11/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/863,100

Applicant(s)

JING ET AL.

Examiner

Jennine M. Brown

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

Examiner has entered Applicants amendment, which obviates Examiners previous objection, therefore the objection has been withdrawn.

### ***Specification***

The spacing of the lines of the specification is such as to make reading and entry of amendments difficult. New application papers with lines double spaced on good quality paper are required.

No new matter is to be entered into the record.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kresge, et al. (US 5250282).

Kresge, et al. teach a magnesium chloride based carrier containing a titanium alkoxide compound (alkoxide having 1 to 6 carbon atoms – col. 15, l. 32-34 – titanium butoxide and ethoxide are included in these alkoxides) and an alcohol (alcohol having 1 to 6 carbon atoms – col. 15, l. 39-43 – includes ethanol, propanol, butanol and hexanol) such that the x ray powder diffraction spectra has one or two main diffraction lines at  $2\theta$  in the range of  $1-50^\circ$  for anhydrous  $\alpha$ - magnesium chloride calculated as nm instead of degrees (col. 6, l. 17-61; col. 6, l.

62 – col. 7, l. 45; col. 8, l. 15-27; col. 10, l. 20-30, 40-59; col. 11, l. 1-41; col. 11, 60 – col. 12, l. 20; col. 14, l. 49 – col. 15, l. 55; col. 18, l. 43-53; col. 19, l. 20-61; col. 20, l. 6-25; col. 22, l. 14-23; col. 25, l. 64 – col. 26, l. 3; col. 26, l. 32-38).

### ***Response to Arguments***

Applicant's arguments filed 08/21/2003 have been fully considered but they are not persuasive.

According to the MPEP, for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or **impliedly**. Any feature not directly taught **must be inherently present**.

It is well known in the art that magnesium chloride is solubilized in an alcohol and is evidenced in Applicant's own specification, page 1, line 36 in the prior art which prepares the catalyst by solubilizing anhydrous magnesium chloride in an alcohol. Again on page 2, lines 5 and 29, the magnesium chloride is dissolved in ethanol. In the detailed description of the invention, Applicants disclose the use of magnesium chloride in alcohol (page 3, line 27) and also in Example 5. Finally, because the x-ray diffraction spectra are taught by the prior art the compound has the same molecular structure and is inherently present.

Examiner maintains previous rejections.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of

the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

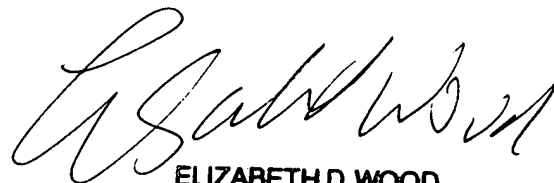
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennine M. Brown whose telephone number is (703) 305-0435. The examiner can normally be reached on M-F 8:00 AM - 6:00 PM; first Friday off.

After the move to the new USPTO Headquarters in Alexandria, VA, tentatively scheduled for the week of December 22, 2003, the examiner's new phone number will be (571) 272-1364 and Mr. Bell's new phone number will be (571) 272-1362.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell can be reached on (703) 308-3823. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

jmb



**ELIZABETH D. WOOD**  
**PRIMARY EXAMINER**